

MINUTES OF THE MEETING  
OF THE SAN LUIS OBISPO COUNTY  
SUBDIVISION REVIEW BOARD

May 2, 2005

PRESENT: MEMBERS: Richard Lichtenfels, Environmental Health  
Richard Marshall, Public Works  
John Nall, Planning  
Aeron Arlin-Genet, Air Pollution Control District  
John Euphrat, Planning, Chairman

ABSENT: NONE

STAFF

PRESENT: Josh Lebombard,  
Elizabeth Kavanaugh,  
John McKenzie,  
Andrea Miller,  
Brian Pedrotti

OTHERS

PRESENT: James Orton, Deputy County Counsel

The following action minutes are listed as they were acted upon by the Subdivision Review Board and as listed on the agenda for the Regular Meeting of May 2, 2005, together with the maps and staff reports attached thereto and incorporated therein by reference.

The meeting is called to order by Chairman John Euphrat.

**Roll Call**

**Public comment:** None

- 1. Consent Agenda is presented for approval. Thereafter, on motion of Mr. Marshall, seconded by Mr. Lichtenfels, and unanimously carried the consent agenda is approved as noted below:**
  - a. Minutes of March 7, 2005 SRB Meeting
  - b. Minutes April 4, 2005 SRB Meeting
  - c. Request for a 1<sup>st</sup> one year time extension from the applicant **HARDY & JUDITH HEARN** for Parcel Map CO 001-0310, to subdivide an existing 10 acre parcel into two parcels of 5 acres each, in the Residential Rural Land

Use Category. The project is located in the county at 2635 Green Place approximately ½ mile west of El Campo, approximately ¾ miles northeast of the Village of Palo Mesa; APN: 075-221-007, in the South County Planning Area. **County File No. s000101p/co 00-0310**. Supervisorial District: 4. The Subdivision Review Board grants a 1<sup>st</sup> Time Extension to May 2, 2006, subject to the original conditions of approval as set forth in the minutes of the Subdivision Review Board meeting dated May 2, 2005.

d. Request for a 2<sup>nd</sup> one year time extension from the applicant **MARGARET CROFTS/LEONARD LINGER** for a Vesting Tentative Parcel Map **CO 00-0008/Coastal Development Permit**, to subdivide an approximately 12.855 square foot site into two lots of approximately 6,000 and 6,855 square feet each. Project site in the Residential ultiple Family land use category. The project is located on the western corner of Cypress Avenue and "D" Street, approximately 300 feet east of Ocean Avenue in the community of Cayucos. APN: 064-031-035, in the Estero Planning Area. **County File No. S990223p/D99016V/CO 00-0008**. Supervisorial District: #2. The Subdivision Review Board grants a 2<sup>nd</sup> one year Time Extension to May 2, 2006, subject to the original conditions of approval as set forth in the minutes of the Subdivision Review Board meeting dated May 2, 2005.

e. Request from **Jack and Cynthia Bodger** for a **2nd time extension** for a tentative parcel map CO 01-0400 to subdivide an existing 5.0 acre parcel into four parcels of 1.02, 1.02, 1.17 and 1.79 acres each. The project is within the Residential Suburban land use category and is located at 745 Sandydale Road, approximately 600 feet east of Pomeroy Road, in the community of Nipomo; APN: 091-326-015, in the South County Planning Area. **County File No. S010089P / CO 01-0400**. Supervisorial District 4. The Subdivision Review Board grants a 2<sup>nd</sup> one year Time Extension to May 2, 2006, subject to the original conditions of approval as set forth in the minutes of the Subdivision Review Board meeting dated May 2, 2005.

#### **HEARINGS:**

1. Request by **RAYMOND BARKER** for a Lot Line Adjustment to adjust the lot lines between 3 parcels of 16.86, 0.18, and 0.16 acres each. The adjustment will result in 3 parcels of 16.74, 0.36, 0.10 acres each. The project will not result in the creation of any additional parcels. The proposed project is within the Residential Suburban land use category and is located at 652 11<sup>th</sup> Street in the community of San Miguel. The site is in the Salinas River planning area. Also to be considered at the hearing will be approval of the Environmental Document prepared in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et seq. Mitigation measures are proposed to address Biological Resources. **County File No: SUB2004-00124**; APN's: 021-241-019, 021-401-012, 021-401-007; Supervisorial District: 1; Date Accepted: February 2, 2005; Josh LeBombard,

Project Manager gives staff report. Condition 10 discussed regarding overhang conformance. Project is recommended for approval. Board members and staff discuss Parcel 3. James Caruso discusses map on page 1-13, new and old lines, and how the lines can be re-drawn so as not to reduce the parcel size. Tobey Osgood, agent, EMK & Associates, states the applicant wishes to eliminate a small peninsula of land belonging to the larger parcel. Background history regarding the current parcel configuration is discussed. Parcel 3 line configurations discussed. Board members and staff discuss boundaries between Suburban and Multi-family land use categories and whether community water and sewer or URL serves the lots. Staff states Condition 12 was misnumbered, and should be number 11. **Thereafter, on motion of Mr. Lichtenfels, seconded by Mr. Nall, and unanimously carried, to adopt the Negative Declaration in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et seq. and to approve Lot Line Adjustment SUB 2004-00124, based on the Findings in Exhibit A and subject to the Conditions in Exhibit B, with new Condition 12 added as follows:**

12. The following notes shall be included on the second sheet of the Final Map; if Certificates of Compliance are the recording instrument instead of a Final Map, the items shall be completed **prior to map recordation or recordation of the Certificates of Compliance**, and the applicant will be required to enter into a mitigation agreement to adhere to the following conditions during future construction.

San Joaquin Kit Fox

- a. **BR-1 Prior to issuance of grading and/or construction permits**, the applicant shall submit evidence to the County of San Luis Obispo, Department of Planning and Building Environmental Resource and Management Division (County) (see contact information below) that states that one or a combination of the following four San Joaquin kit fox mitigation measures has been implemented:
  - i. Provide for the protection in perpetuity, through acquisition of fee or a conservation easement, suitable habitat in the kit fox corridor area (e.g. within the San Luis Obispo County kit fox habitat area, northwest of Highway 58), either on-site or off-site, and provide for a non-wasting endowment to provide for management and monitoring of the property in perpetuity. Lands to be conserved shall be subject to the review and approval of the California Department of Fish and Game (Department) and the County.

This mitigation alternative (a.), requires that all aspects of this program must be in place before County permit issuance or initiation of any ground disturbing activities.

- b. Deposit funds into an approved in-lieu fee program, which would provide for the protection in perpetuity of suitable habitat in the kit fox corridor area within San Luis Obispo County, and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.

Mitigation alternative (b) above, can be completed by providing funds to The Nature Conservancy (TNC), pursuant to the Voluntary Fee-based Compensatory Mitigation Program (Program). The Program was established in agreement between the Department and TNC to preserve San Joaquin kit fox habitat, and to provide a voluntary mitigation alternative to project proponents who must mitigate the impacts of projects in accordance with the California Environmental Quality Act (CEQA). The fee, payable to "The Nature Conservancy", would be based on the total area of disturbance from project activities multiplied by \$2500 per acre. This fee must be paid after the Department provides written notification identifying your mitigation options but prior to County permit issuance and initiation of any ground disturbing activities.

- c. Purchase credits in a Department-approved conservation bank, which would provide for the protection in perpetuity of suitable habitat within the kit fox corridor area and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.

At this time, there is no approved conservation bank that is operational in San Luis Obispo County. A conservation bank is expected to be operational in the near future. Purchase of credits must be completed prior to County permit issuance and initiation of any ground disturbing activities.

- d. If none of the above measures (a, b, or c) are available, the applicant may enter into a Mitigation Agreement with the Department, including depositing of funds into an escrow account (or other means of securing funds acceptable to the Department) which would ensure the protection in perpetuity of suitable habitat within the kit fox corridor area and provide for a non-wasting endowment for management and monitoring in perpetuity. The Department can provide a draft agreement to review; a signed Mitigation Agreement shall be submitted to the County prior to County permit issuance and initiation of any ground disturbing activities.

- e. **BR-2 Prior to issuance of grading and/or construction permits, or conducting any grading associated with map/certificate recordation**, the applicant shall provide evidence to the County that they have retained a qualified biologist acceptable to the County Division of Environmental and Resource Management. The retained biologist shall perform the following monitoring activities:

- i. **Prior to issuance of grading and/or construction permits and within 30 days prior to initiation of site disturbance and/or construction**, the biologist shall conduct a pre-activity (i.e. pre-construction) survey for known or potential kit fox dens and submit a letter to the County reporting the date the survey was conducted, the survey protocol, survey results, and what measures were necessary (and completed), as applicable, to address any kit fox activity within the project limits.

- ii. The qualified biologist shall conduct weekly site visits during site-disturbance activities (i.e. grading, disking, excavation, stock piling of dirt or gravel, etc.) that proceed longer than 14 days, for the purpose of monitoring compliance with required Mitigation Measures BR-3 through BR11. Site-

disturbance activities lasting up to 14 days do not require weekly monitoring by the biologist unless observations of kit fox or their dens are made on-site or the qualified biologist recommends monitoring for some other reason (see BR-2-c3). When weekly monitoring is required, the biologist shall submit weekly monitoring reports to the County.

iii. **Prior to or during project activities**, if any observations are made of San Joaquin kit fox, or any known or potential San Joaquin kit fox dens are discovered within the project limits, the qualified biologist shall re-assess the probability of incidental take (e.g. harm or death) to kit fox. At the time the den is discovered, the qualified biologist shall contact the U.S. Fish and Wildlife Service and the Department for guidance on possible additional kit fox protection measures to implement and whether or not a Federal and/or State incidental take permit is needed. If a potential den is encountered during construction, all work shall stop until such time the U. S. Fish and Wildlife Service and Department determine that it is appropriate to resume work.

iv. If incidental take of kit fox during project activities is possible, **before project activities commence**, the applicant must consult with the U.S. Fish and Wildlife Service and the Department (see contact information below). The results of this consultation may require the applicant to obtain a Federal and/or State permit for incidental take during project activities. The applicant should be aware that the presence of kit foxes or known or potential kit fox dens at the project site could result in further delays of project activities.

In addition, the qualified biologist shall implement the following measures:

1. **Within 30 days prior to initiation of site disturbance and/or construction**, fenced exclusion zones shall be established around all known and potential kit fox dens. Exclusion zone fencing shall consist of either large flagged stakes connected by rope or cord, or survey laths or wooden stakes prominently flagged with survey ribbon. Each exclusion zone shall be roughly circular in configuration with a radius of the following distance measured outward from the den or burrow entrances:

- a) Potential kit fox den: 50 feet
- b) Known kit fox den: 100 feet
- c) Kit fox pupping den: 150 feet

2. All foot and vehicle traffic, as well as all construction activities, including storage of supplies and equipment, shall remain outside of exclusion zones. Exclusion zones shall be maintained until all project-related disturbances have been terminated, and then shall be removed.

3. If kit foxes or known or potential kit fox dens are found on site, daily monitoring during ground disturbing activities shall be required by a qualified biologist.

f. **BR-3 Prior to issuance of grading and/or construction permits, or approval of any improvement plans related to map/certificate recordation**, the applicant shall clearly delineate as a note on the project plans, that: *"Speeds signs of 25 mph maximum (or lower) shall be posted for all construction traffic, to minimize the probability of road mortality of the San Joaquin kit fox."* Speed limit

signs shall be installed on the project site **within 30 days prior to initiation of site disturbance and/or construction**,

g. In addition, **prior to permit issuance and initiation of any ground disturbing activities, or any grading associated with map/certificate recordation**, conditions BR-3 through BR-11 of the Developer's Statement/Conditions of Approval shall be clearly delineated on project plans.

h. BR-4 **During the site disturbance and/or construction phase**, grading and construction activities after dusk shall be prohibited unless coordinated through the County, during which additional kit fox mitigation measures may be required.

i. BR-5 **Prior to issuance of grading and/or construction permit, and within 30 days prior to initiation of site disturbance and/or construction**, all personnel associated with the project shall attend a worker education training program, conducted by a qualified biologist, to avoid or reduce impacts on sensitive biological resources (i.e. San Joaquin kit fox). At a minimum, as the program relates to the kit fox, the training shall include the kit fox's life history, all mitigation measures specified by the county, as well as any related biological report(s) prepared for the project. The applicant shall notify the County shortly prior to this meeting. A kit fox fact sheet shall also be developed prior to the training program, and distributed at the training program to all contractors, employers and other personnel involved with the construction of the project.

j. BR-6 **During the site-disturbance and/or construction phase**, to prevent entrapment of the San Joaquin kit fox, all excavation, steep-walled holes or trenches in excess of two feet in depth shall be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Trenches shall also be inspected for entrapped kit fox each morning prior to onset of field activities and immediately prior to covering with plywood at the end of each working day. Before such holes or trenches are filled, they shall be thoroughly inspected for entrapped kit fox. Any kit fox so discovered shall be allowed to escape before field activities resume, or removed from the trench or hole by a qualified biologist and allowed to escape unimpeded.

k. BR-7 **During the site-disturbance and/or construction phase**, any pipes, culverts, or similar structures with a diameter of four inches or greater, stored overnight at the project site shall be thoroughly inspected for trapped San Joaquin kit foxes before the subject pipe is subsequently buried, capped, or otherwise used or moved in any way. If during the construction phase a kit fox is discovered inside a pipe, that section of pipe will not be moved, or if necessary, be moved only once to remove it from the path of activity, until the kit fox has escaped.

l. BR-8 **During the site-disturbance and/or construction phase**, all food-related trash items such as wrappers, cans, bottles, and food scraps generated shall be disposed of in closed containers only and regularly removed from the site. Food items may attract San Joaquin kit foxes onto the project site,

consequently exposing such animals to increased risk of injury or mortality. No deliberate feeding of wildlife shall be allowed.

m. **BR-9 Prior to, during, and after the site-disturbance and/or construction phase**, use of pesticides or herbicides shall be in compliance with all local, state and federal regulations. This is necessary to minimize the probability of primary or secondary poisoning of endangered species utilizing adjacent habitats, and the depletion of prey upon which San Joaquin kit foxes depend.

n. **BR-10 During the site-disturbance and/or construction phase**, any contractor or employee that inadvertently kills or injures a San Joaquin kit fox or who finds any such animal either dead, injured, or entrapped shall be required to report the incident immediately to the applicant and County. In the event that any observations are made of injured or dead kit fox, the applicant shall immediately notify the U.S. Fish and Wildlife Service and the Department by telephone (see contact information below). In addition, formal notification shall be provided in writing within three working days of the finding of any such animal(s). Notification shall include the date, time, location and circumstances of the incident. Any threatened or endangered species found dead or injured shall be turned over immediately to the Department for care, analysis, or disposition.

o. **BR-11 Prior to final inspection, or occupancy, whichever comes first**, should any long internal or perimeter fencing be proposed or installed, the applicant shall do the following to provide for kit fox passage:

i. If a wire strand/pole design is used, the lowest strand shall be no closer to the ground than 12".

ii. If a more solid wire mesh fence is used, 8" x 12" openings near the ground shall be provided every 100 yards.

p. Upon fence installation, the applicant shall notify the County to verify proper installation. Any fencing constructed after issuance of a final permit shall follow the above guidelines.

(Document No. 2005-023).

- 2 Hearing to consider a request by **PATRICK MOLNAR** for a Lot Line Adjustment to adjust the lot lines between three parcels of approximately .5, 1.3 and 1.7 acres each. The adjustment will result in three parcels of approximately 1.1, 1.2 and 1.2 acres each. The project will not result in the creation of any additional parcels. The proposed project is within the Residential Rural land use category and is located at 202, 204, and 208 4<sup>th</sup> Street, on the southeast corner of 4<sup>th</sup> Street and Maple Street, approximately 500 feet west of the community of Paso Robles. The site is in the Salinas River planning area. Also to be considered at the hearing will be approval of the Environmental Document prepared for the item. Mitigation measures are proposed to address Biological Resources, Geology and Soils, Public Services and Water. **County File No SUB 2003-00201 / COAL04-0216**; APN: 018-241-010; Supervisorial District No. 1; Date accepted: September 2, 2004. Elizabeth Kavanaugh, Project Manager gives staff report and recommends approval. **Thereafter, on motion by Mr.**

**Lichtenfels, seconded by Mr. Nall, and unanimously carried, to adopt the Negative Declaration in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et seq. and to approve Lot Line Adjustment COAL04-0216/SUB2003-00201, based on the findings in Exhibit A and subject to the Conditions in Exhibit B. (Document No. 2005-024).**

2. Hearing to consider a request by **JERRY SPENCER** for a Tentative Parcel Map CO 02-0330 to subdivide an existing 10-acre parcel into two parcels of five acres each for the purpose of sale and/or development. The project will result in no site disturbance at this time. The proposed project is within the Residential Rural land use category and is located on the southwest corner of Toby Way and San Juan Road, in the community of Shandon. The site is in the Shandon/Carrizo planning area. Also to be considered at the hearing will be approval of the Environmental Document prepared for the item. Mitigation measures are Agricultural Resources, Biology, Noise, Public Services, and Recreation **County File Number: SUB2003-00102**; APN: 017-163-032; Supervisorial District No.1, Date Accepted: April 21, 2004. Elizabeth Kavanaugh , Project Manager, gives staff report. Ms. Arlin-Genet makes comments regarding Air Pollution Control's position, indicating the project will tend to fracture rural lands. **Thereafter, on motion by Mr. Nall, Seconded by Mr. Marshall, and carried, with Ms. Arlin-Genet voting no, to adopt the Negative Declaration in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et seq., and to approve Tentative Parcel Map CO 02-0330/SUB2003-00102 based on Findings in Exhibit A and subject to the Conditions in Exhibit B, with the addition of Conditions 11.q. and 11.r. as follows:**

11.q. Upon fence installation, the applicant shall notify the County to verify proper installation. Any fencing constructed after issuance of a final permit shall follow the above guidelines.

11.r. Developmental burning of vegetative material is prohibited within San Luis Obispo County. Under certain circumstances developmental burning may be allowed. This will require prior application and payment of fee to the Air Pollution Control District and issuance of a burn permit by the Air Pollution Control District and CDF. (Document No. 2005-025).

3. Hearing to consider a request by **JIM MAY** for a Vesting Parcel Map to subdivide an existing 265 acre parcel into two parcels of 89 and 176 acres each for the purpose of sale and/or development. The project will result in the disturbance of approximately 28,000 square feet. The proposed project is within the Agriculture land use category and is located at 6860 Los Osos Valley Road, approximately two miles southeast of Turri Road, approximately 2.5 miles west of the City of San Luis Obispo. The site is in the San Luis Obispo planning area. APN: 067-061-050. Also to be considered at the hearing will be approval of the Environmental Document prepared for the item. Mitigation measures are proposed to address aesthetics, agriculture, biological resources, cultural resources, and geology and soils. **County File No.: S990160P / CO99-0303.** Date accepted: November 2, 2001. Supervisorial District: 2. John McKenzie, Project Manager, gives staff report and recommends adoption of the Negative Declaration and approval of the project. Discussion takes place regarding the suitability of the sites for building, soils, and a minor agricultural cluster. Terry



Payne, RRM Design Group states they have no concerns with the staff report and can answer any questions regarding the applicant's position. **Thereafter on motion of Mr. Lichtenfels, seconded by Mr. Nall, and unanimously carried, this board adopts the Negative Declaration in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et seq., and approves Vesting Tentative Parcel Map CO 99-0303/S990160P to Jim May for the above referenced project based on Findings in Exhibit A and subject to Conditions in Exhibit B with the following added Condition 19:**

19. Prior to the filing of the final parcel or tract map, the applicant shall submit to and be jointly approved by the county Department of Planning and Building and Health Department, results of percolation tests and the log or logs of soil borings performed by a registered civil engineer. For this purpose, the applicant shall perform one or more soil borings to be a minimum depth of ten (10) feet in the area of the appropriate area of the proposed sewage disposal system to determine the: a) subsurface soil conditions, (example: impermeable strata which act as barriers to the effective percolation of sewage); b) presence of groundwater; c) separation between sewage disposal saturation areas and groundwater; d) borings shall be as deep as necessary below the proposed on-site disposal area to assure required separation. The applicant must perform a minimum of three (3) percolation test holes, to be spaced uniformly in the area of the proposed sewage disposal system.

**(Parcels 1 & 2 only).**

(Document No. 2005-026).

5. Hearing to consider a request by **Rosemary Carlon** for ten Conditional Certificates of Compliance for 10 lots approximately 10,500 square feet each. The proposed project is within the Residential Single Family land use category and is located along Honeygrove Lane between Story and Southland Street in the community of Nipomo, in the South County (Inland) planning area. APN: 092-321-028. Also to be considered at the hearing will be approval of the Environmental Document prepared for the item. Mitigation measures are proposed to address Air Quality, Public Services/Utilities and Transportation/Circulation. **County File No: S030174C.** Supervisorial District: District 4. Date Accepted: February 15, 2005. Andrea Miller, Project Manager, gives staff report and advises board of new Condition number 18. Larry Kelly, staff, states Condition 18 clarifies where setbacks apply. Rosemary Carlon, applicant, states her main concern is privacy and requests clarification of where her fence must be placed. Setbacks are fully discussed. Jim McGillis represents 10 lots across the street on Honeygrove. States this application should not be considered while there are pending zoning violations. Zoning violations discussed. Jeff Cool, president of the Honeygrove Homeowners Association states his desire for this project to be denied. Joe Ibarra states his mother owns a couple of parcels near project and states the garage doors are an eye sore. Laura Moss, area resident, states her concern is traffic. Max Carlon, area resident, states the dirt road does not belong to the Home Owners Association, but was grandfathered to his parents. Points out his parcel stating the 10 foot easement for the lots was taken from there.. James Caruso, staff, states stock conditions for community water and community sewer will be provided. Discussion takes place among Board members and staff regarding code enforcements, fencing, letters that were sent to the principles, encroachments, dimensions of the right-of-way, alignment of the fence, that all but two lots are vacant, what procedures should be applied in this case, what

is governed by the Land Use Ordinance, what is governed by the Subdivision Map Act. Mr. Orton provides legal clarification. **Thereafter, on motion by Mr. Marshall, seconded by Mr. Nall, and unanimously carried, this board continues the above item to June 6, 2005.** (Document No. 2005-027).

6. Hearing to consider a request by **MID STATE PRECISION** for a Vesting Tentative Parcel Map / Conditional Use Permit to subdivide an existing 1 acre parcel into a planned development consisting of two parcels of 0.28 acres each including development of two industrial buildings of 7,800 and 8,162 square feet (one on each respective parcel) and an additional common parcel of 19,014 square feet for common parking and driveway area for the purpose of sale and/or development. The project will result in the disturbance of approximately one acre. The proposed project is within the Industrial Land Use Category and is located at 2375 Precision Drive, approximately 400 feet west of Winterhaven Way, in the Callender-Garrett Village Area, in the South County (Inland) Planning Area. Also to be considered at the hearing will be approval of the Environmental Document prepared for the item. Mitigation measures are proposed to address Aesthetics and Air Quality. **County File No: SUB 2003-00125 / CO04-134.** APN: 091-402-002. Supervisorial District 4. Date Accepted: September 20, 2004. Brian Pedrotti, Project Manager, states staff is requesting a withdrawal of this item. It has been re-noticed for the June 6, 2005 meeting. No action taken.

There being no further business, the meeting is adjourned.

Respectfully submitted,  
Ramona Hedges